

AMENDED IN ASSEMBLY MAY 22, 1998  
AMENDED IN ASSEMBLY MARCH 26, 1998  
AMENDED IN ASSEMBLY FEBRUARY 19, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1621**

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**Introduced by Assembly Members Figueroa and Leach**  
**(Principal coauthor: Assembly Member Thomson)**  
**(Coauthors: Assembly Members Bordonaro, Cunneen, and**  
**Kuehl)**  
**(Coauthor: Senator Watson)**

January 5, 1998

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An act to add Section 1367.63 to the Health and Safety Code, to add Section ~~10123.84~~ 10123.88 to the Insurance Code, and to add Section 14132.62 to the Welfare and Institutions Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1621, as amended, Figueroa. Health care coverage: reconstructive surgery.

Under existing law, health care service plans are subject to licensure and regulation by the Commissioner of Corporations. Under existing law, disability insurers are subject to licensure and regulation by the Insurance Commissioner. Existing law establishes the Medi-Cal program to provide health care benefits to low-income individuals. Willful violation of the law regulating health care service plans is a crime.

This bill would require certain health care service plan contracts, and certain policies of disability insurance, issued, amended, delivered, or renewed on or after January 1, 1999, to cover reconstructive surgery, as defined. ~~The bill would require the participating treating physician to determine whether a particular procedure is reconstructive surgery for purposes of these provisions and would prohibit a health care service plan or disability insurer from requiring a treating physician to obtain prior authorization, unless a certain state statute is enacted in 1998.~~ The bill would also require reconstructive surgery to be deemed medically necessary and to be covered under the Medi-Cal program.

By changing the definition of a crime relative to health care service plans, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1367.63 is added to the Health  
2 and Safety Code, to read:

3 1367.63. (a) Every health care service plan contract,  
4 except a specialized health care service plan contract,  
5 that is issued, amended, delivered, or renewed in this  
6 state on or after January 1, 1999, shall cover reconstructive  
7 surgery.

8 (b) Reconstructive surgery shall be deemed medically  
9 necessary and shall be covered under this chapter, *subject*  
10 *to prior authorization and utilization review. No*  
11 *individual, other than a licensed physician competent to*  
12 *evaluate the specific clinical issues involved in the care*  
13 *requested, may deny initial requests for authorization of*  
14 *coverage for treatment pursuant to this section.*

(c) “Reconstructive surgery” means surgery performed to correct or repair abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease to do either of the following:

(1) To improve function.

(2) To give a patient a normal appearance.

~~(d) (1) The participating treating physician shall determine whether a particular procedure meets the criteria of subdivision (e).~~

~~(2) No health care service plan may require a treating physician to obtain prior authorization for a procedure that has been determined pursuant to paragraph (1) to be reconstructive surgery.~~

~~(e)~~

(d) Nothing in this section shall be construed to require a plan to provide coverage for cosmetic surgery. “Cosmetic surgery” means surgery performed to reshape normal structures of the body in order to improve the patient’s appearance.

~~(f) Subdivision (d) shall be operative unless, on or before February 1, 1999, the department, or other agency administering this chapter, notifies the Secretary of State that a state statute was enacted during 1998 that provides enrollees with access to an appeal mechanism to independent, third-party review entities that are authorized to decide appeals of enrollees of prior authorization denials.~~

SEC. 2. Section ~~10123.84~~ 10123.88 is added to the Insurance Code, to read:

~~10123.84.~~

10123.88. (a) Every policy of disability insurance covering hospital, medical, or surgical expenses that is issued, amended, delivered, or renewed in this state on or after January 1, 1999, shall cover reconstructive surgery.

(b) Reconstructive surgery shall be deemed medically necessary and shall be covered under this chapter, *subject to prior authorization and utilization review. No individual, other than a licensed physician competent to evaluate the specific clinical issues involved in the care*

1 *requested, may deny initial requests for authorization of*  
2 *coverage for treatment pursuant to this section.*

3 (c) “Reconstructive surgery” means surgery  
4 performed to correct or repair abnormal structures of the  
5 body caused by congenital defects, developmental  
6 abnormalities, trauma, infection, tumors, or disease to do  
7 either of the following:

8 (1) To improve function.

9 (2) To give a patient a normal appearance.

10 ~~(d) (1) The participating treating physician shall~~  
11 ~~determine whether a particular procedure meets the~~  
12 ~~criteria of subdivision (e).~~

13 ~~(2) No disability insurer may require a treating~~  
14 ~~physician to obtain prior authorization for a procedure~~  
15 ~~that has been determined pursuant to paragraph (1) to~~  
16 ~~be reconstructive surgery.~~

17 ~~(e)~~

18 (d) Nothing in this section shall be construed to  
19 require an insurer to provide coverage for cosmetic  
20 surgery. “Cosmetic surgery” means surgery performed to  
21 reshape normal structures of the body in order to  
22 improve the patient’s appearance.

23 ~~(f) Subdivision (d) shall be operative unless, on or~~  
24 ~~before February 1, 1999, the department notifies the~~  
25 ~~Secretary of State that a state statute was enacted during~~  
26 ~~1998 that provides enrollees with access to an appeal~~  
27 ~~mechanism to independent, third-party review entities~~  
28 ~~that are authorized to decide appeals of enrollees of prior~~  
29 ~~authorization denials.~~

30 SEC. 3. Section 14132.62 is added to the Welfare and  
31 Institutions Code, to read:

32 14132.62. (a) Reconstructive surgery shall be  
33 deemed medically necessary and shall be covered under  
34 this chapter.

35 (b) “Reconstructive surgery” means surgery  
36 performed on abnormal structures of the body caused by  
37 congenital defects, developmental abnormalities,  
38 trauma, infection, tumors, or disease to do either of the  
39 following:

40 (1) To improve function.

1 (2) To give a patient a normal appearance.

2 SEC. 4. No reimbursement is required by this act  
3 pursuant to Section 6 of Article XIII B of the California  
4 Constitution because the only costs that may be incurred  
5 by a local agency or school district will be incurred  
6 because this act creates a new crime or infraction,  
7 eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section  
9 17556 of the Government Code, or changes the definition  
10 of a crime within the meaning of Section 6 of Article  
11 XIII B of the California Constitution.

12 Notwithstanding Section 17580 of the Government  
13 Code, unless otherwise specified, the provisions of this act  
14 shall become operative on the same date that the act  
15 takes effect pursuant to the California Constitution.

